IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA NO.4409 OF 2004
DATE OF DECISION: 30-08-2007

Jog Dhian and others

.....APPELLANTS

VERSUS

Shiv Kumar and others

.....RESPONDENTS

CORAM:- **HON'BLE MR.JUSTICE HEMANT GUPTA**

PRESENT: Mr.SP Singh, Advocate
for the appellants.

Mr.CB Goel, Advocate
for the respondents.

HEMANT GUPTA, J.(Oral)

The plaintiffs are in second appeal arising out of a suit wherein the challenge is to the decree dated 19-9-1984. The defendants relied upon the aforesaid decree and also a Will dated 26-9-1977 to claim the estate of Ram Rakha.

The plaintiffs are the grand maternal sons and daughters of Ram Rakha through his only daughter Kreshani Devi whereas the defendants are collaterals. It is contended that Ram Rakha could not suffer a consent decree in favour of his collaterals as they are not members of his family. Even the Will does not disclose any reason for excluding the nearest heir from inheritance.

In view of the above, I am of the opinion that the following substantial questions of law arise for consideration of this Court:

"1.Whether Ram Rakha could suffer a consent decree dated 19-09-1984 in favour of the defendants on the basis of alleged family settlement?

2. Whether the defendants can be said as owner of the suit land on the basis of Will dated 26-9-1977 and that whether such will is proved to be executed and is not surrounded by suspicious circumstances?"

Admitted.

The respondents are restraining from alienating any part of suit property without the permission of the Court.

(HEMANT GUPTA)
JUDGE

August 30, 2007
jt